

Message Text

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ACTION IO-14

INFO OCT-01 EUR-12 ISO-00 IOE-00 SSO-00 INRE-00 NSCE-00
USIE-00 ERDE-00 ACDA-07 CIAE-00 DODE-00 PM-04
INR-07 L-03 NSAE-00 NASA-01 NSC-05 ERDA-05 SS-15
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O R 241353Z JUN 77
FM AMEMBASSY VIENNA
TO SECSTATE WASHDC IMMEDIATE 2267
INFO USMISSION NEW YORK

C O N F I D E N T I A L SECTION 1 OF 2 VIENNA 5097

E.O. 11652: GDS
TAGS: TSPA, UN
SUBJECT: OUTER SPACE COMMITTEE: DIRECT BROADCAST SATELLITES

1. SUMMARY. INFORMAL WORKING GROUP RECORDED MODERATE PROGRESS ON PREAMBLE TO DBS GUIDELINES AND BEGAN DISCUSSING THE CONTROVERSIAL "10TH PRINCIPLE" CONCERNING "CONSULTATIONS AND AGREEMENTS BETWEEN STATES" 24 JUNE. DISCUSSION OF THE "10TH PRINCIPLE" WILL CONTINUE IN THE WG ON 27 JUNE, AT WHICH POINT US INABILITY TO ACCEPT "AGREEMENTS AND/OR ARRANGEMENTS" PHRASE WILL BE MADE CLEAR. END SUMMARY.

2 DETAILS. WG CONTINUED TO WOEK ON PREAMBLE CONTAINED IN "NEW YORK REPORT" OF THE LEGAL SUBCOMMITTEE. US, UK, FRANCE, CANADA, NIGERIA AND ARGENTINA WERE FREQUESNT SPEAKERS. FRANCE PROVED HELPFUL IN SUGGESTING GUIDELINES PREAMBLE MEMTION BENEFITS TO INDIVIDUALS, NOT TO "MANKIND", AND THIS WAS INCORPORATED IN A REVISED PREAMBULAR PARAGRAPH. AS PROVISIONALLY AGREED, THE FIRST THREE PREAMBULAR PARAGRAPHS READ: BEGIN QUOTE: THE GENERAL ASSEMBLY,

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IN VIEW OF THE BENEFITS OF INTERNATIONAL DIREST TELEVISION BROADCASTING BY MEANS OF ARTIFICIAL EARTH SATELLITES FOR INDIVIDUALS, PEOPLES, COUNTRIES AND ALL MANKIND,
DESIRING TO SAFEGUARD THE LEGITIMATE RIGHTS AND INTERESTS OF ALL STATES AND TO ENCOURAGE ORDERLY DEVELOPMENT ON AN EQUITABLE BASIS OF THIS NEW AND

PROMISING MEANS OF TELEVISION BROADCASTING,
RECOGNIZING THE UNIQUE CHARACTERISTICS OF SUCH
SATELLITE BROADCASTING NOT ENCOUNTERED IN OTHER FORMS
OF BROADCASTING WHICH NECESSITATE BESIDES RELEVANT
TECHNICAL REGULATIONS ALSO LEGAL PRINCIPLES SOLELY
APPLICABLE IN THIS FIELD,
(MATERIAL TO BE INSERTED; SEE COMMENT BELOW)
CONSIDERING THAT STATES, AS WELL AS INTERNATIONAL
GOVERNMENTAL AND NON-GOVERNMENTAL ORGANIZATIONS,
INCLUDING BROADCASTING ASSOCIATIONS, SHOULD BASE THEIR
ACTIVITIES IN THIS FIELD UPON AND ENCOURAGE INTERNATIONAL
COOPERATION.
SOLEMNLY DECLARIES THAT IN INTERNATIONAL DIRECT
TELEVISION BROADCASTING BY MEANS OF ARTIFICIAL EARTH
SATELLITES, STATES SHOULD BE GUIDED BY THE FOLLOWING
PRINCIPLES. END QUOTE.

3. COMMENT: (A) THE DIFFICULT PART OF THE PREAMBLE
(APPENDIX TO ANNEX II OF THE NEW YORK REPORT) WAS
DISCUSSED BUT PUT TO ONE SIDE TO ALLOW WG TO BEGIN
TO DISCUSS THE CONSULTATION AND AGREEMENTS PRINCIPLE.
(B) THE FIRST AND THIRD PARAGRAPHS OF THE PREAMBLE NOW
APPEAR WITHOUT BRACKETS (SUBJECT, OF COURSE, TO THE
CONDITION, WHICH HOLDS THROUGHOUT, THAT ALL AGREEMENTS
ARE PROVISIONAL PENDING A REVIEW OF THE GUIDELINES
PACKAGE WHEN IT IS COMPLETE) (C) THE SECOND, FOURTH AND
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FIFTH PARAGRAPHS WERE AGREED EARLIER IN THE LEGAL
SUBCOMMITTEE. (D) THE PLACE IN THE PREAMBLE AT WHICH
AN OMISSION IS INDICATED IS A REMINDER THAT THE PREAMBLE
IS NOT YET COMPLETE AND THAT VARIOUS DELEGATIONS WANT
VARIOUS MATERIAL MENTIONED--STRICT RESPECT FOR
SOVEREIGNTY, NON-INTERFERENCE IN INTERNAL AFFAIRS,
FREEDOM OF EXPRESSION, ETC. THUS, WG HEARD BUT PUT
ASIDE FOR THE MOMENT A NEW ROMANIAN SO-CALLED "COMPROMISE"
FORMULATION FOR TWO ADDITIONAL PARAGRAPHS WHICH WOULD
READ BEGIN QUOTE:

RECALLING THE DUTY OF ALL STATES TO RESPECT THE
PRINCIPLES OF THE SOVEREIGN EQUALITY OF STATES AND OF
NON-INTERFERENCE IN THE INTERNAL AFFAIRS OF OTHER STATES,

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RECOGNIZING THE IMPORTANCE OF FREER AND BROADER
EXCHANGE OF IDEAS BETWEEN ALL COUNTRIES OF THE WORLD
END QUOTE.

4. WHEN WG TURNED TO THE THREE-PARAGRAPH "CONSULTATION
AND AGREEMENTS BETWEEN STATES" PRINCIPLE, SOV DEL BEGAN
BY MAKING CONCILIATORY GESTURE OF AGREEING TO INCLUDE
IN THE FIRST PARAGRAPH THE PREVIOUSLY BRACKETED
LANGUAGE OF THE NY TEXT CONCERNING THE FACT THAT NON-
GOVERNMENTAL BROADCASTERS MAY WISH TO USE DBS. US
AND ARGENTINA WELCOMED THIS, AND WG NOTED AGREEMENT.

5. THERE FOLLOWED A LENGTHY EXCHANGE BETWEEN THE
UK, FRANCE, THE US, SWEDEN, THE USSR, ROMANIA, INDIA
AND ARGENTINA ON OPTIMUM WORDING AS TO THE RELEVANCE
OF THE ITU CONVENTION AND ITS RADIO REGULATIONS. AS
THE UK POINTED OUT, AGREEMENT WAS REACHED DURING THE
1976 LEGAL SUBCOMMITTEE SESSION (IN THE PROVISION ON
APPLICATION OF INTERNATIONAL LAW) THAT NOT ONLY THE
CHARTER AND THE OUTER SPACE TREATY BUT ALSO THE ITU
CONVENTION AND RADIO REGULATIONS APPLY TO DBS ACTIVITIES
(SEE A/AC/105/171, ANNEX II). THE CENTRAL DIFFICULTY
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OF SAYING, AS DOES THE NY TEXT, THAT DBS ACTIVITIES
"SHALL BE BASED ON APPROPRIATE AGREEMENTS AND/OR
ARRANGEMENTS BETWEEN THE BROADCASTING AND RECEIVING
STATES OR THE BROADCASTING ENTITIES DULY AUTHORIZED
BY THE RESPECTIVE STATE" WAS NOT REPEAT NOT YET
ADDRESSED. THE WG CONCLUDED BY AGREEING TO CONSIDER
ON 27 JUNE THE FOLLOWING AMALGAMATED REVISION OF THE

FIRST PARAGRAPH. BEGIN QUOTE: A DIRECT TELEVISION
BROADCASTING SERVICE BY MEANS OF ARTIFICAL EARTH
SATELLITES SPECIFICALLY DIRECTED AT A FOREIGN STATE
SHALL BE ESTABLISHED ONLY (IN THOSE CASES WHEN IT IS
IN AGREEMENT WITH AN WITHOUT PREJUDICE TO)
(IN THOSE CASES WHEN IT DOES NOT CONTRADICT TO AND
WITHOUT PREJUDICE TO)
(WHEN IT IS COMPATIBLE WITH AND WITHOUT PREJUDICE TO)
THE RELEVANT INTERESTS OF THE ITU AND SHALL BE BASED
ON APPROPRIATE AGREEMENTS AND/OR ARRANGEMENTS BETWEEN
THE BROADCASTING AND RECEIVING STATE, OR THE BROADCASTING
ENTITIES DULY AUTHORIZED BY THE RESPECTIVE STATES, IN ORDER
TO FACILITATE THE FREER AND WIDER DISSEMINATION OF
INFORMATION OF ALL KINDS AND TO ENCOURAGE CO-OPERATION
IN THE FIELD OF INFORMATION AND THE EXCHANGE OF
INFORMATION WITH OTHER COUNTRIES. END QUOTE.

6. COMMENT. (A) AS NOTED, THE CENTRAL DIFFICULTY
INVOLVING "AGREEMENTS AND/OR ARRANGEMENTS", FOR
WHICH THE US WOULD WISH TO SUBSTITUTE THE CONCEPT OF
NOTIFICATION AND CONSULTATIONS, REMAINS. AT THE NEXT
WG SITTING WE WILL PUT FORWARD US OBJECTIONS AND,
DEPENDING UPON THE DRAFTING SITUATION, ASK THAT
BRACKETS BY INSERTED TO HIGHLIGHT THE POINT OF
DISAGREEMENT. AS OF NOW, WE DO NOT FORESEE ANY
SUPPORT FOR THIS POSITION BUT WILL TRY TO GET THE
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FRG TO SPEAK WITH US. (B) AS TO THE THREE
PARENTHETICAL EXPRESSIONS, THESE ARE ALTERNATIVES.
THE UK AND FRANCE ACCEPT THE THIRD FORMULATION,
WHICH APPEARS CORRECT. (C) THIS FIRST PARAGRAPH
OF THE "10TH PRINCIPLE" IS VERY HEAVY AND, APART
FROM SUBSTANTIVE DIFFERENCE, WILL HAVE TO BE LOOKED
AT FROM THE DRAFTING POINT OF VIEW IF THE END
PRODUCT IS TO BE INTELLIGIBLE. MEEHAN

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